

JOURNAL OF THE HOUSE

EIGHTY-SEVENTH SESSION

THIRTY-THIRD DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Monday, March 19, 2012

The House convened at 10:00 a.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Representative Steve Hickey, followed by the Pledge of Allegiance led by House pages Anna Cronin and Andie Shuck.

Roll Call: All members present except Reps. Iron Cloud III, Steele, and Wismer who were excused.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the thirty-second day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Val Rausch, Chair

Which motion prevailed.

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1 March 16, 2012

2 Mr. Speaker and Members of the House of Representatives:

3 I have the honor to inform you that on March 16, 2012, I approved House Bill 1133, and the
4 same has been deposited in the office of the Secretary of State.

5 Respectfully submitted,
6 Dennis Daugaard
7 Governor

8 March 12, 2012

9 The Honorable Val Rausch
10 Speaker of the House of Representatives
11 500 East Capitol Avenue
12 Pierre, SD 57501-5070

13 Dear Mr. Speaker and Members of the House of Representatives:

14 I respectfully return House Bill 1058 and pursuant to Article IV, Section 4 of the South Dakota
15 Constitution, I exercise a LINE ITEM VETO on the same.

16 House Bill 1058 is entitled, "An Act to make an appropriation to the Unified Judicial System
17 court automation fund and revise certain record search fees charged by clerks of court".

18 This bill appropriates one dollar (\$1) in Section 1 of the bill which is unnecessary. Sections 1,
19 2, and 3 of the bill relate to the appropriation of one dollar (\$1) to the Unified Judicial System.
20 Sections 4, 5, and 6 of House Bill 1058 amend SDCL 16-2-29.5 to change the records search
21 fee from fifteen dollars (\$15) to the new fee of twenty dollars (\$20). This new fee becomes
22 effective January 1, 2013 and will sunset June 30, 2017.

23 Because of this unnecessary one dollar (\$1) appropriation in Section 1, I am exercising a line
24 item veto to strike the portion of the bill which relates to this appropriation. I specifically
25 request that, Sections 1, 2, and 3 of the bill be deleted.

26 This eliminates the one dollar (\$1) appropriation and the other sections relating to this special
27 appropriation.

28 Finally, I strike the following phrase in the title "make an appropriation to the Unified Judicial
29 System court automation fund and." This changes the title of the bill so that the title relates only
30 to the fee increase.

1 I respectfully request that you concur with my LINE ITEM VETO of House Bill 1058.

2 Sincerely,
3 Dennis Daugaard
4 Governor

5 cc: The Honorable Jason Gant
6 The Honorable Mathew Michels

7 March 16, 2012

8 The Honorable Val Rausch
9 Speaker of the House of Representatives
10 500 East Capitol Avenue
11 Pierre, SD 57501-5070

12 Dear Mr. Speaker and Members of the House of Representatives:

13 I herewith return to you House Bill 1228 with my VETO. House Bill 1228 is entitled, "An Act
14 to provide tax refunds for certain energy projects."

15 I ask you to sustain this veto for a number of reasons.

16 First, this legislation, hoghoused without notice during the last week of session, was not fully
17 and completely vetted. No fiscal note was prepared and important information was not provided
18 during the committee or floor debates. That HB 1228 would provide millions of dollars in
19 benefits to electric customers in Minnesota, North Dakota, and Montana was not discussed. Our
20 state has limited dollars to invest in economic development, education, taking care of people,
21 and public safety. The legislature deserves sufficient opportunity to determine whether tax
22 breaks to benefit citizens of other states is the best use of those dollars.

23 Second, this legislation is unnecessarily discriminatory. It is not good policy to exclude wind
24 farms smaller than \$50 million from these tax breaks, especially since there is already a 20 MW
25 wind farm being planned near Belle Fourche that would be competitively disadvantaged by this
26 legislation.

27 Third, HB 1228 is at best confusing. In reality, it is a continuous appropriation labeled as a tax
28 refund. The amount of the "refund" has no relationship to the taxes paid. Two projects with the
29 same nameplate rating totals, whose costs vary for other reasons, will pay different excise and
30 sales tax amounts yet be entitled to the same "refund." This is an appropriation, not a refund,
31 and a two-thirds vote should have been required for passage in the first instance.

32 Finally, this legislation is poorly timed. I agree that we should have incentives in place to further
33 develop our state's wind resource. However, we need a comprehensive policy to address the
34 disincentive in our tax code for all large development opportunities. Given the uncertainty
35 surrounding Referred Law 14, I am uncomfortable changing our approach toward just one type
36 of large project before knowing the will of the voters.

1 I am committed to working with stakeholders in the energy arena to develop mechanisms to
2 incentivize their industry. However, HB 1228 is the wrong mechanism at the wrong time. I
3 respectfully request that you sustain my veto.

4 Respectfully,
5 Dennis Daugaard
6 Governor

7 cc: The Honorable Matt Michels
8 The Honorable Jason Gant

9 March 16, 2012

10 The Honorable Val Rausch
11 Speaker of the House of Representatives
12 500 East Capitol Avenue
13 Pierre, SD 57501-5070

14 Dear Mr. Speaker and Members of the House of Representatives:

15 I herewith return to you House Bill 1248 with my VETO. House Bill 1248 is entitled, "An Act
16 to provide for exceptions from certain misdemeanor offenses relating to possession of
17 handguns."

18 I support our citizens' right to possess a concealed handgun under our current laws. I ask you
19 to sustain this veto because HB 1248 creates an exception to South Dakota's firm, fair and
20 reasonable concealed carry permit process. This exception weakens the reasonable protections
21 currently in place, and it could lead to confusion and to longer and more frequent detainment
22 of innocent citizens who choose to carry a concealed weapon.

23 South Dakota law already allows law-abiding citizens to carry a concealed weapon. The simple,
24 straightforward permit process allows law enforcement to ensure that those who carry concealed
25 weapons do not fall under one of the state's narrow exceptions. Each year, locally-elected
26 sheriffs deny permits, in most cases because the applicant has a serious criminal history. Under
27 this bill, those who are prohibited from carrying a concealed weapon would no longer be
28 informed of that fact. Understandably, law enforcement officials from across South Dakota have
29 objected to this bill.

30 This bill will also result in longer and more frequent detention of those who legally carry a
31 concealed weapon. Absent a permit requirement, law enforcement would not be able to ascertain
32 whether an individual is "otherwise eligible to be issued a permit to carry a concealed pistol."
33 If this bill becomes law, innocent citizens could be detained by law enforcement and subjected
34 to time-consuming criminal and mental health background checks.

35 Even if this bill becomes law, those who wish to conceal a weapon in another state would, in
36 almost all cases, still be required to have a concealed carry permit. Repealing that requirement
37 in South Dakota could lead to our citizens being arrested in other states because of an honest

misunderstanding as to whether they are lawfully entitled to carry a concealed weapon in that state.

This bill is a solution searching for a problem. South Dakota's current permit process is simple and straightforward, and permits can be obtained in a matter of minutes. The current process preserves Second Amendment rights while respecting concerns for public safety, in particular the safety of law enforcement officers who put themselves at risk to protect us.

It is paramount that our state protects the rights of our citizens while at the same time protecting the lives of our citizens. I believe our current laws appropriately protect both interests, and I respectfully request that you sustain my veto.

Respectfully submitted,
Dennis Daugaard
Governor

cc: The Honorable Matt Michels
The Honorable Jason Gant

CONSIDERATION OF EXECUTIVE VETOES AND RECOMMENDATIONS

The House proceeded to the reconsideration of HB 1058 pursuant to the line item veto of the Governor and the veto message found on page 735 of the House Journal as provided in Article IV, Section 4, of the Constitution of the State of South Dakota.

The question being "Shall the recommendation of the Governor as to the line item veto of HB 1058 be approved?"

And the roll being called:

Yeas 62, Nays 5, Excused 3, Absent 0

Yeas:

Abdallah; Blake; Bolin; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert; Dryden; Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Greenfield; Hansen (Jon); Hawley; Hickey; Hoffman; Hubbel; Hunhoff (Bernie); Hunt; Jones; Killer; Kirkeby; Kirschman; Kloucek; Liss; Lucas; Lust; Magstadt; Miller; Moser; Munsterman; Novstrup (David); Olson (Betty); Perry; Romkema; Rozum; Schaefer; Schrempp; Scott; Sigdestad; Sly; Solum; Street; Stricherz; Tornow; Tulson; Turbiville; Van Gerpen; Vanneman; Venner; Verchio; White; Wick; Willadsen; Wink; Speaker Rausch

Nays:

Haggar; Jensen; Kopp; Nelson (Stace); Russell

Excused:

Iron Cloud III; Steele; Wismer

So the bill having received an affirmative vote of a two-thirds majority of the members-elect, the Speaker declared the bill passed, sustaining the Governor's veto.

The House proceeded to the reconsideration of HB 1228 pursuant to the veto of the Governor and the veto message found on page 736 of the House Journal as provided in Article IV, Section 4, of the Constitution of the State of South Dakota.

The question being "Shall HB 1228 pass, the veto of the Governor notwithstanding?"

And the roll being called:

Yeas 44, Nays 23, Excused 3, Absent 0

Yeas:

Abdallah; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert; Dryden; Feickert; Gibson; Gosch; Greenfield; Hawley; Hickey; Hoffman; Hubbel; Kloucek; Liss; Magstadt; Miller; Moser; Munsterman; Nelson (Stace); Novstrup (David); Olson (Betty); Perry; Romkema; Rozum; Russell; Schaefer; Sly; Solum; Street; Stricherz; Tulson; Turbiville; Van Gerpen; Vanneman; Venner; White; Wick; Willadsen; Wink; Speaker Rausch

Nays:

Blake; Bolin; Boomgarden; Elliott; Fargen; Feinstein; Haggar; Hansen (Jon); Hunhoff (Bernie); Hunt; Jensen; Jones; Killer; Kirkeby; Kirschman; Kopp; Lucas; Lust; Schrempp; Scott; Sigdestad; Tornow; Verchio

Excused:

Iron Cloud III; Steele; Wismer

So the bill not having received an affirmative vote of a two-thirds majority of the members-elect, the Speaker declared the bill lost, sustaining the Governor's veto.

The House proceeded to the reconsideration of HB 1248 pursuant to the veto of the Governor and the veto message found on page 737 of the House Journal as provided in Article IV, Section 4, of the Constitution of the State of South Dakota.

The question being "Shall HB 1248 pass, the veto of the Governor notwithstanding?"

And the roll being called:

Yeas 27, Nays 40, Excused 3, Absent 0

Yeas:

Boomgarden; Brunner; Carson; Conzet; Cronin; Gosch; Greenfield; Haggar; Hansen (Jon); Hickey; Hubbel; Jensen; Kirkeby; Liss; Lust; Munsterman; Nelson (Stace); Olson (Betty); Russell; Stricherz; Tornow; Van Gerpen; Venner; Verchio; Wick; Wink; Speaker Rausch

1 Nays:

2 Abdallah; Blake; Bolin; Deelstra; Dennert; Dryden; Elliott; Fargen; Feickert; Feinstein; Gibson;
3 Hawley; Hoffman; Hunhoff (Bernie); Hunt; Jones; Killer; Kirschman; Kloucek; Kopp; Lucas;
4 Magstadt; Miller; Moser; Novstrup (David); Perry; Romkema; Rozum; Schaefer; Schrempp;
5 Scott; Sigdestad; Sly; Solum; Street; Tulson; Turbiville; Vanneman; White; Willadsen

6 Excused:

7 Iron Cloud III; Steele; Wismer

8 So the bill not having received an affirmative vote of a two-thirds majority of the members-
9 elect, the Speaker declared the bill lost, sustaining the Governor's veto.

10 There being no objection, the House reverted to Order of Business No. 7.

11 **MESSAGES FROM THE SENATE**

12 **MR. SPEAKER:**

13 I have the honor to inform your honorable body that the Senate has approved SB 194 as
14 recommended by the Governor, pursuant to Article IV, Section 4, of the Constitution of the
15 State of South Dakota, for changes as to style and form. The recommendation of the Governor
16 is found on page 672 of the Senate Journal.

17 We hereby request your favorable consideration in approving the recommendation of the
18 Governor as to style and form on SB 194.

19 Respectfully,
20 Fee Jacobsen, Secretary

21 **CONSIDERATION OF EXECUTIVE VETOES AND RECOMMENDATIONS**

22 (continued)

23 The House proceeded to the consideration of the recommendation of the Governor as to
24 change of style and form of SB 194 as found on page 672 of the Senate Journal, as provided in
25 Article IV, Section 4, of the Constitution of the State of South Dakota.

26 The question being "Shall the recommendation of the Governor as to change of style and
27 form of SB 194 be approved?"

28 And the roll being called:

29 Yeas 65, Nays 0, Excused 5, Absent 0

1 Yeas:

2 Blake; Bolin; Boomgarden; Brunner; Carson; Conzet; Cronin; Deelstra; Dennert; Dryden;
3 Elliott; Fargen; Feickert; Feinstein; Gibson; Gosch; Greenfield; Haggar; Hansen (Jon); Hawley;
4 Hickey; Hoffman; Hubbel; Hunhoff (Bernie); Hunt; Jensen; Jones; Killer; Kirkeby; Kirschman;
5 Kloucek; Kopp; Liss; Lucas; Lust; Magstadt; Miller; Moser; Munsterman; Nelson (Stace);
6 Novstrup (David); Olson (Betty); Perry; Romkema; Rozum; Russell; Schaefer; Schrempp;
7 Scott; Sigdestad; Sly; Solum; Stricherz; Tornow; Tulson; Turbiville; Van Gerpen; Vanneman;
8 Venner; Verchio; White; Wick; Willadsen; Wink; Speaker Rausch

9 Excused:

10 Abdallah; Iron Cloud III; Steele; Street; Wismer

11 So the question having received an affirmative vote of a majority of the members-elect, the
12 Speaker declared the recommendation of the Governor as to change of style and form approved.

13 Rep. Lust moved that the House do now recess until 12:15 p.m., which motion prevailed
14 and at 11:30 a.m., the House recessed.

15 **RECESS**

16 The House reconvened at 12:15 p.m., the Speaker Pro tempore presiding.

17 There being no objection, the House reverted to Order of Business No. 7.

18 **MESSAGES FROM THE SENATE**

19 MR. SPEAKER:

20 I have the honor to inform your honorable body that the Senate has approved HB 1058 as
21 recommended by the Governor, pursuant to Article IV, Section 4, of the Constitution of the
22 State of South Dakota, as to the Line Item veto.

23 Also MR. SPEAKER:

24 I have the honor to inform your honorable body that the Senate has passed SB 157, the
25 Governor's veto notwithstanding.

1 Also MR. SPEAKER:

2 I have the honor to inform your honorable body that the Senate has adopted the report of
3 the Joint-Select Committee for the purpose of fixing the time of adjournment sine die for the
4 Eighty-seventh Legislative Session.

5 Also MR. SPEAKER:

6 I have the honor to inform your honorable body that the Senate has adopted the report of
7 the Joint-Select Committee for the purpose of informing his Excellency, the Governor, that the
8 Legislature has completed its labors, is ready to adjourn sine die, and to ascertain if he has any
9 further communications to make to the Legislature.

10 Respectfully,
11 Fee Jacobsen, Secretary

12 **CONSIDERATION OF EXECUTIVE VETOES AND RECOMMENDATIONS**
13 (continued)

14 The House proceeded to the reconsideration of SB 157 pursuant to the veto of the
15 Governor and the veto message found on page 673 of the Senate Journal as provided in
16 Article IV, Section 4, of the Constitution of the State of South Dakota.

17 Rep. Cronin moved the previous question.

18 Which motion prevailed.

19 The question being "Shall SB 157 pass, the veto of the Governor notwithstanding?"

20 And the roll being called:

21 Yeas 43, Nays 24, Excused 3, Absent 0

22 Yeas:

23 Abdallah; Blake; Bolin; Boomgarden; Carson; Cronin; Deelstra; Dennert; Elliott; Fargen;
24 Feickert; Gibson; Greenfield; Haggar; Hansen (Jon); Hawley; Hickey; Hoffman; Hunt; Jones;
25 Kirschman; Liss; Lucas; Magstadt; Moser; Munsterman; Nelson (Stace); Novstrup (David);
26 Perry; Rozum; Russell; Schaefer; Scott; Sigdestad; Solum; Street; Tornow; Tulson; Vanneman;
27 White; Wick; Willadsen; Speaker Rausch

1 Nays:

2 Brunner; Conzet; Dryden; Feinstein; Gosch; Hubbel; Hunhoff (Bernie); Jensen; Killer; Kirkeby;
3 Kloucek; Kopp; Lust; Miller; Olson (Betty); Romkema; Schrempp; Sly; Stricherz; Turbiville;
4 Van Gerpen; Venner; Verchio; Wink

5 Excused:

6 Iron Cloud III; Steele; Wismer

7 So the bill not having received an affirmative vote of a two-thirds majority of the members-
8 elect, the Speaker declared the bill lost, sustaining the Governor's veto.

9 Speaker Rausch now presiding.

10 **CONSIDERATION OF REPORTS OF JOINT-SELECT COMMITTEES**

11 MR. SPEAKER

12 Your Joint-Select Committee appointed to wait upon his Excellency, the Governor, to
13 inform him that the Legislature has completed its labors and is ready to adjourn sine die and to
14 ascertain if he has any further communications to make to the Legislature, respectfully reports
15 that it has performed the duty assigned to it and has been informed by his Excellency, the
16 Governor, that he will not appear for the closing of the Eighty-seventh Legislative Session.

17 Respectfully submitted,
18 Val Rausch
19 David Lust
20 Bernie Hunhoff
21 House Committee

Respectfully submitted,
Russell Olson
Corey Brown
Jason Frerichs
Senate Committee

22 Rep. Lust moved that the report of the Joint-Select Committee relative to informing the
23 Governor that the Legislature has completed its labors and is ready to ascertain if he has any
24 further communications to make to the Legislature be adopted.

25 Which motion prevailed.

1 Also MR. SPEAKER:

2 Your Joint-Select Committee appointed to consider the matter of adjournment sine die of
3 the Eighty-seventh Legislative Session respectfully reports that the Senate and House of
4 Representatives adjourn sine die at the hour of 1:55 p.m., March 19, 2012.

5 Respectfully submitted,
6 Val Rausch
7 David Lust
8 Bernie Hunhoff
9 House Committee

Respectfully submitted,
Craig Tieszen
Shantel Krebs
James Hundstad
Senate Committee

10 Rep. Lust moved that the report of the Joint-Select Committee relative to fixing the time
11 to adjourn sine die be adopted.

12 Which motion prevailed.

13 There being no objection, the House reverted to Order of Business No. 5.

14 **REPORTS OF STANDING COMMITTEES**

15 MR. SPEAKER:

16 The Committee on Legislative Procedure respectfully reports that the House and Senate
17 have, pursuant to the Governor's veto of HB 1228, sustained that veto and delivered the same
18 to his Excellency, the Secretary of State, for filing at 12:27 p.m., March 19, 2012.

19 Also MR. SPEAKER:

20 The Committee on Legislative Procedure respectfully reports that the House and Senate
21 have, pursuant to the Governor's veto of HB 1248, sustained that veto and delivered the same
22 to his Excellency, the Secretary of State, for filing at 12:27 p.m., March 19, 2012.

1 Also MR. SPEAKER:

2 The Committee on Legislative Procedure respectfully reports that the House and Senate
3 have, pursuant to the recommendation of the Governor as to line item veto of HB 1058,
4 sustained that line item veto and the Office of Enrolling and Engrossing has engrossed the
5 changes and has returned the same to his Excellency, the Governor at 12:55 p.m., March 19,
6 2012.

7 Respectfully submitted,
8 Val Rausch, Chair

9 The following prayer was offered by the Chaplain, Representative Steve Hickey:

10 Heavenly Father, You are the Alpha and the Omega, You are our Beginning and our End.
11 You are the LORD of the seedtime, and LORD of the harvest. Life is a gift from You. Each day
12 is part of Your plan and we are sobered to realize how we are a central part of what You are
13 doing in governing the affairs of this world. We have met each day of this legislative session
14 seeking Your wisdom and guidance and have sought to be faithful to the stewardship of the
15 calling we have been given as representative leaders. As we close this session, we commit our
16 work and our state to You, trusting our words and our actions have been pleasing in Your sight.
17 We are grateful for Your mercies and humbly request Your continued grace for our travels
18 home. In Your name we pray.

19 An now may the LORD bless you and keep you; the LORD make his face to shine upon
20 you and be gracious to you; the LORD lift up his countenance upon you and give you His peace.
21 Amen.

22 Rep. Turbiville moved that the House do now adjourn sine die, which motion prevailed and
23 at 1:55 p.m. the House adjourned.

24 Karen Gerdes, Chief Clerk
25 by Arlene Kvislen